

## Message Text

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PAGE 01 STATE 014999  
ORIGIN EB-04

INFO OCT-01 ISO-00 ARA-06 SS-14 SP-02 L-01 /028 R

DRAFTED BY EB/TCA:JWBILLER:JO

APPROVED BY EB:JLKATZ

EB/OA - MHSTYLES

EB/OA/AVP - AJWHITE

ARA:BRAY

EB/AN - AJRIMAS

EB/OA/AVP - SCKEITER

ARA/ECA:RWZIMMERMANN

ARA/ECP - DTAHER

-----221659Z 012729 /44

R 221640Z JAN 77

FM SECSTATE WASHDC

TO AMEMBASSY BRASILIA

INFO AMCONSUL RIO DE JANEIRO

C O N F I D E N T I A L STATE 014999

STADIS////////////////////////////////

LIMDIS

E.O. 11652: GDS

TAGS: EAIR, BR

SUBJECT: BRASILIAN FUEL TAX ISSUE

REF : (A) BRASILIA 260; (B) STATE 4758

1. DEPT AGREES THAT PROPOSED EXCHANGE OF NOTES WAS ONLY DESIGNED AS A MEANS TO AN END RATHER THAN AN END IN ITSELF, AND WE DO NOT BASE POSITION STATED IN REF B ON THE LEGALISTIC ARGUMENT THAT NOTES WERE NOT EXCHANGED. WE REGRET IF PARA 2 OF REF B LED THE EMBASSY TO INFER  
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OTHERWISE.

2. EMBASSY'S ASSESSMENT THAT FORMALITIES ARE NOT THE BASIC ISSUE IS THUS CORRECT. HOWEVER, THERE ARE IMPORTANT SUBSTANTIVE RESPECTS IN WHICH THE OUTCOME OF THE FUEL TAX ISSUE DIFFERS FROM THE RESULT WE SOUGHT SO ASSIDUOUSLY. FOR EXAMPLE, WE CLEARLY HAD IN MIND ACHIEVING AN EXEMPTION

FOR NONSKEDS WHICH WOULD BE PERMANENT. THE PERMANENCE OF THE GOB'S ACTION IS STILL OPEN TO QUESTION. MUCH MORE IMPORTANTLY, OUR NEGOTIATIONS WITH THE GOB ON SUPPLEMENTAL AIRLINE DISCRIMINATION WERE CARRIED ON IN THE CONTEXT OF OUR BROADER POLICY OBJECTIVE OF TOTAL AND COMPLETE EXEMPTION FROM FUEL TAXES FOR ALL U.S. AIRLINES. THIS POSITION WAS CLEAR, AS EARLY AS OUR NOTE TO THE GOB ON JANUARY 13, 1975. OUR EFFORTS FOCUSED ON THE NARROWER ISSUE OF SUPPLEMENTAL AIRLINE TAX EXEMPTION RATHER THAN ON THE BROADER ONE OF ACROSS-THE-BOARD EXEMPTION BECAUSE THE FORMER WAS THE IMMEDIATE PROBLEM, BUT WE WERE CAREFUL TO STATE OUR POSITION TO THE GOB IN TERMS WHICH ENCOMPASSED THE BROADER POLICY. THIS APPROACH WAS FOR TWO REASONS. FIRST, THE ACROSS-THE-BOARD EXEMPTION DID HAVE SOME RELEVANCE SO FAR AS OUR RECIPROCAL GRANTING OF FUEL TAX EXEMPTION TO VARIG IS CONCERNED. SECOND, WHILE WE DID NOT ANTICIPATE THE INTRODUCTION OF ALINEA M, WE WANTED TO PROTECT AGAINST POSSIBILITY THAT THE GOB MIGHT AT SOME TIME INTRODUCE NEW FUEL CHARGES WHICH WOULD CREATE FUTURE PROBLEMS. WE SOUGHT ASSURANCES CONCERNING THIS POSSIBILITY, AS WELL AS A SOLUTION TO DISCRIMINATION AGAINST SUPPLEMENTALS, AS A QUID PRO QUO FOR ENTERING CHARTER AGREEMENT DISCUSSIONS.

3. IT WAS FOR THESE REASONS THAT IN THE NOTE DELIVERED TO GOB ON OCTOBER 1, 1976, WE EXPLICITLY PROPOSED "...THAT THE AGREEMENT PROVIDE SIMPLY THAT FUEL AND LUBRICATING OILS TAKEN ON BOARD AIRCRAFT OF ONE CONFIDENTIAL

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TRACTING PARTY IN THE TERRITORY OF THE OTHER AND USED IN INTERNATIONAL COMMERCIAL SERVICES, WHETHER SCHEDULED OR UNSCHEDULED, CARRYING PASSENGERS AND/OR CARGO TO OR FROM THE TERRITORY OF THAT OTHER CONTRACTING PARTY, SHALL BE EXEMPT ON A BASIS OF RECIPROCITY FROM CUSTOMS DUTIES, EXCISE TAXES, INSPECTION FEES AND OTHER NATIONAL DUTIES OR CHARGES." OUR OFFER TO ENTER CHARTER AGREEMENT TALKS WAS CONDITIONED ON GOB "ACCEPTANCE OF THIS PROVISION."

4. IN FACT, GOB HAS NOT ACCEPTED THIS PROVISION BUT HAS SOLVED THE SUPPLEMENTAL DISCRIMINATION PROBLEM IN A WAY THAT THE PROVISION WAS INTENDED TO AVOID. OUR OFFER TO NEGOTIATE ON CHARTERS WAS TIED TO ACHIEVING BOTH NONDISCRIMINATION AND RECIPROCITY. WE OBTAINED THE FORMER BUT NOT THE LATTER.

5. THIS DOES NOT MEAN THAT IF THE GOB REQUESTS DISCUSSIONS ON A CHARTER BILATERAL THAT WE WOULD NECESSARILY

REFUSE. NOR DOES IT MEAN THAT THE EMBASSY'S SUCCESS IN REMOVING DISCRIMINATION AGAINST SUPPLEMENTALS WAS NOT A VALUABLE ACCOMPLISHMENT. IT DOES MEAN, HOWEVER, THAT WE WILL TREAT ANY REQUEST FOR CHARTER TALKS ON ITS MERITS RATHER THAN ON THE BASIS OF A COMMITMENT TO RESPOND AFFIRMATIVELY.

6. WITH REGARD TO STATE 305292, WE CONCUR IN EMBASSY'S VIEW THAT IT WOULD BE UNWISE TO PRESS BRAZILIANS ON

ISSUE OF GATEWAYS AT THIS TIME. IF WE SHOULD LATER BELIEVE THAT SOME PRESSURE MAY BE IN ORDER, WE WILL CONSULT FURTHER WITH EMBASSY.

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## Message Attributes

**Automatic Decaptioning:** Z  
**Capture Date:** 01-Jan-1994 12:00:00 am  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** POLICIES, AIR FARES, SUPPLEMENTAL AIRLINES, TAXES  
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**Decaption Note:** 25 YEAR REVIEW  
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**Disposition Approved on Date:**  
**Disposition Case Number:** n/a  
**Disposition Comment:** 25 YEAR REVIEW  
**Disposition Date:** 22 May 2009  
**Disposition Event:**  
**Disposition History:** n/a  
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**Disposition Remarks:**  
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**Document Unique ID:** 00  
**Drafter:** JWBILLER:JO  
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**Executive Order:** GS  
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**Original Handling Restrictions:** LIMDIS, STADIS  
**Original Previous Classification:** n/a  
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**TAGS:** EAIR, BR, US  
**To:** BRASILIA  
**Type:** TE  
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**Review Markings:**  
Margaret P. Grafeld  
Declassified/Released  
US Department of State  
EO Systematic Review  
22 May 2009  
**Markings:** Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009